

PT 97-51
Tax Type: PROPERTY TAX
Issue: Government Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

PUBLIC BUILDING COMMISSION)		
OF CHICAGO)	Docket #	94-16-1383
Applicant)		
)	Parcel Index #	20-06-420-030
v.)	Parcel Index #	20-06-420-031
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: D. Rainell Rains, attorney for the Public Building Commission of Chicago.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, 100 W. Randolph, Chicago, Illinois on May 9, 1997, to determine whether or not Cook County Parcel Index Nos. 20-06-420-030 and 20-06-420-031 qualified for a property tax exemption during the 1994 assessment year.

D. Rainell Rains of the Public Building Commission of Chicago (hereinafter referred to as the "Applicant") was present on behalf of the applicant.

The issues in this matter include whether the applicant owned the parcels in question and whether the applicant complied with the requirement to notify the applicable municipality, school district, and community college district, pursuant to 35 ILCS 200/16-130, of the fact that they had applied for the property tax exemption. Following the submission of all the evidence and a review of the record, it is determined that the applicant did own the parcels in question and did notify the appropriate entities of the request for exemption.

It is determined that the applicant qualified for the exemption during the 1994 assessment year.

Findings of Fact:

1. The position and jurisdiction of the Illinois Department of Revenue, (hereinafter referred to as the "Department") was established by the admission into evidence of Department's Exhibits Nos. 1 through 3.

2. The applicant was listed as the grantee on a Quit Claim Deed dated March 10, 1992, which conveyed parcels of land from the Catholic Bishop of Chicago to the applicant. A Confirmation Deed, between the two parties, was executed on January 3, 1994, to correct the legal descriptions on the Quit Claim Deed. (Dept. Ex. No. 1)

3. The property was acquired by the applicant to be improved with a building identified as new school "H" for the Board of Education. (Dept. Ex. No. 1)

4. On September 11, 1995, the Department received the application for property tax exemption for Cook County Parcel Index Nos. 20-06-420-030 and 20-06-420-031 which had been submitted by the applicant to the Cook County Board of Appeals. The assessment value for the parcels was noted as \$199,766.00. (Dept. Ex. No. 1)

5. The Department made repeated requests to the applicant for copies of letters to entities that would be affected by the exemption, if granted. (Dept. Ex. No. 1)

6. On May 9, 1996, the Department denied the requested exemption, finding that the applicant had failed to "provide copies of letters sent to the municipality, school district and community college district notifying them of the exemption application as the assessment is \$100,000.00 or more per the Board of Appeals." (Dept. Ex. No. 1)

7. The applicant timely appealed the denial of the exemption and requested a hearing. (Dept. Ex. No. 2)

8. At the hearing, the applicant produced copies of letters that had been sent by certified mail on February 11, 1997, to the City of Chicago, Cook County, and the Board of Trustees of Community College District #508, notifying them that the applicant had requested a property tax exemption for the above referenced property. (Applicant's Ex. No. 1)

9. The applicant also produced an affidavit stating that there had been no objections to the granting of the exemption. (Applicant's Ex. No. 1)

10. I take administrative notice of the fact that the applicant has been found, by the Department, to be an organization that qualified for a real estate tax exemption pursuant to docket number 92-16-1046.

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The property tax code, at 35 **ILCS** 200/15-110, exempts certain property from taxation in part as follows:

Municipal building corporations. All property of any municipal corporation created for the purpose of providing buildings, or space therein, and other facilities to or for the use of municipal corporations and other governmental agencies, including, but not limited to, any Public Building Commission created under the Public Building Commission Act, is exempt.¹

The exemption procedure, before the Board of Appeals in any county with 3,000,000 or more inhabitants, requires that an applicant:

... Upon filing of any application for an exemption which would, if approved, reduce the assessed valuation of any property by more than \$100,000, other than a homestead exemption, the owner shall give

¹. 50 **ILCS** 20/1 *et seq.*

timely notice of the application by mailing a copy of it to any municipality, school district or community college district in which such property is situated. Failure of a municipality, school district or community college district to receive the notice shall not invalidate any exemption.... 35 **ILCS** 200/16-130

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956)

Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

The portions of the statutes that grant an exemption to the applicant in this case, require that the applicant own the property. See 50 **ILCS** 20/22, 35 **ILCS** 200/15-110 A quit claim deed was executed between the applicant and the owner of the parcels in question on March 10, 1992. Subsequently, a confirmation deed was executed on January 3, 1994, to correct the legal description found in the quit claim deed. The record is unclear, and the applicant did not attempt to establish, that the legal description found in the quit claim deed could, in fact, be a correct description of the property. I therefore find that the applicant owned the parcels here in question for the period of January 3, 1994, through December 31, 1994, or for 99% of the taxable year in question.

Regarding the notice requirements found at 35 **ILCS** 200/16-130, since no proof of mailing is required by the statute, it appears that the notice provision is directory rather than jurisdictional, because failure to comply with said provision does not defeat the authority of the Board of Review to rule upon the petition and make a recommendation to the Department. See Andrews v. Foxworthy, 71 Ill.2d 13 (1978); Glasco Electric Co. v. Department of Revenue, 86 Ill.2d 346 (1981); and Moody's Investors Service v. Illinois Department of Revenue, 101

Ill.2d 291 (1984). In addition, after the Department denied the applicant's request for exemption, the applicant sent the required notices, as mandated by the statute.

Based on the foregoing, I recommend that Cook County Parcel Index Nos. 20-06-420-030 and 20-06-420-031 qualify for a property tax exemption for 99% of the 1994 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
October 1, 1997